

Title 10 – DEPARTMENT OF NATURAL RESOURCES
Division 20 – Clean Water Commission
Chapter 4 – Grants

EMERGENCY AMENDMENT

10 CSR 20-4.023 State Forty Percent Construction Grant Program

PURPOSE: This amendment revises the payment procedures in paragraph (22)(B)-(E) to incorporate language necessary to make timely distribution of state bond funds.

EMERGENCY STATEMENT: The State of Missouri is authorized to sell bonds for the funding of water pollution control, rural water and sewer grants, and storm water control pursuant to MO. Const. Art. III, §§37(e), 37(g), and 37(h), respectively. The Missouri Department of Natural Resources and the Missouri Clean Water Commission are mandated to implement regulations to govern the disbursement of the appropriated proceeds of such bond sales for the purposes expressly stated therein. Interest on such bonds sold is generally exempt from federal income taxation. The Internal Revenue Code imposes certain requirements relating to the timely expenditure of such bond sale proceeds. This emergency amendment is necessary to modify existing procedures of the Missouri Department of Natural Resources and the Missouri Clean Water Commission so that unspent sale proceeds of outstanding issues of bonds can be made available for expenditure on a more timely basis, in accordance with the requirements of §149 of the Internal Revenue Code (26 U.S.C. §149). The promulgation of this emergency amendment is necessary to enable the State to continue to comply with the provisions of the Internal Revenue Code that govern the existing bonds so that interest thereon remains exempt from federal income tax in accordance with the expectations of the purchasers of such bonds. The promulgation of this emergency rule is also necessary to assure that the unspent sale proceeds of such bonds can be made available for the constitutionally stated purposes which protect public health, safety, and welfare. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri Department of Natural Resources and Missouri Clean Water Commission have limited the scope of the emergency amendment to the circumstances creating the emergency, and believe that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 1, 2007, becomes effective March 4, 2007, and expires August 30, 2007.

(22) Approval and Payment of Grants.

(A) The applicant shall be notified by the department when the grant is awarded.

(B) **Full [P]**payment under the grant shall be made at the [request of the applicant. A payment equal to forty percent (40%) of the allowance will be made immediately after the grant is awarded and the recipient's reimbursement request is received. Additional payments will be made in four (4) installments as follows] **time of the department's receipt of the executed grant award or grant amendment. The following provisions shall apply:**

1. *[A first installment when not less than twenty-five percent (25%) of the construction of the project is completed based on the contractor's pay estimates]* **The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, Section 409-001.102, RSMo;**

2. *[A second installment when not less than fifty percent (50%) of the construction of the project is completed and the plan of operation for the project and start-up training proposal, if required under subsection (20)(A) and (c) respectively of this rule, have been submitted and approved, and an operation and maintenance manual, as required by the department, is submitted]* **The full grant amount, less any payments processed prior to the date of this rule, will be paid into the grantee's established escrow account;**

3. *[A third installment when not less than ninety percent (90%) of the project is completed, the operation and maintenance manual (if required under subsection (20)(B), has been approved and an enacted sewer use and user charge system have been submitted]* **Grant funds in the escrow account may be used to pay up to forty percent (40% of the costs of subparagraph (6)B of this rule; and**

4. *[A fourth installment when the project is constructed and approved by the department]* **The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs.**

(C) *[Payments]* **Withdrawals** at no time shall exceed forty percent (40%) of the eligible project cost incurred at the time *[payment]* **the withdrawal** is made. Final grant amount will be adjusted *[downward to forty percent (40%) of actual costs at the time of the final reimbursement]* **to reflect the actual project costs as determined by the invoices submitted by the grantee.**

(D) **The department will verify project completion after a final inspection by the department has been conducted.**

(E) **An audit to verify expenditure of grant funds may be made by the department after the completion of the approved project. Any funds found not expended for purposes listed in subparagraph (6)B of this regulation will be recovered in addition to any applicable penalties.**

Auth: section 644.026, RSMo (Supp. 1995). Original rule filed April 2, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective November 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000. Emergency amendment filed Feb. 1, 2007, effective Mar. 4, 2000, expires Aug. 30, 2007.